

JUN 21 1991

SDR-922-91-18
3165.3 (922.H/W)

CERTIFIED - RETURN RECEIPT REQUESTED

DECISION

Mr. Jack J. Grynberg)	
Grynberg Petroleum Company)	SDR No. 922-91-18
5000 South Quebec, Suite 500)	
Denver, Colorado 80237-2707)	

OVERTURNED IN PART - AFFIRMED IN PART

Grynberg Petroleum Company (Grynberg) has requested a State Director Review (SDR) of a May 13, 1991, decision of the Miles City District Office (MCDO) which assessed two \$250 fines for failure to comply with two written orders of the authorized officer in accordance with 43 CFR 3163.1(a)(2). The request was dated June 5, 1991, and was timely received by this office on June 10, 1991 (Attachment 1).

Since the request addresses two individual assessments from the same wellsite, they will be discussed separately below.

SLASH FILE

On May 23, 1989, an application for permit to drill (APD) was approved by the MCDO for the Grynberg Federal No. 2 well. One of the conditions of approval for the well specified that "All trees removed prior to road construction must be removed and stockpiled as per the BLM wood contract" (Attachment 2). The BLM wood contract under Section 3, Special Stipulations, states: "1) All timber and woody material within the marked clearing limits is to be removed from the site or piled in the designated area and burned, 2) Burning of the piled woody material is to be completed by 12/31/89...., and 3) The designated burn area is to be rehabed to the same standards as the well pad." (Attachment 3).

On November 30, 1990, a Notice of Incident of Noncompliance (INC) was issued to Grynberg requiring the woody material piled on the Federal No. 2 wellsite "be disposed of as required by the APD" (Attachment 4). The INC indicated that the corrective action must be completed by February 1, 1991.

On January 21, 1991, Grynberg submitted a sundry notice requesting an extension to the May 1, 1991, deadline to comply with the INC issued on November 30, 1990. On February 19, 1991, the MCDO approved the sundry notice and granted Grynberg an extension (Attachment 5). The approved extension contained conditions of approval indicating that Grynberg was to submit a proposed plan for disposal of the slash pile to the Big Dry Resource Area (BDRA), MCDO by March 29, 1991, and that the slash pile be disposed of by May 1, 1991.

On March 28, 1991, the BDRA received a sundry notice from Grynberg concerning their plans for disposal of the slash pile (Attachment 6). Grynberg's proposal was to bury the slash pile on location and return the area to original contour and revegetate. By letter dated March 29, 1991, the BDRA informed Grynberg that the sundry notice did not contain enough details regarding disposal of the slash pile and asked Grynberg to submit a detailed plan of operation on the disposal method by April 10, 1991 (Attachment 7). The letter also reminded Grynberg of its May 1, 1991, date to dispose of the slash pile.

On May 10, 1991, Grynberg employee Todd McDonald met with John Bramhall and Keith Wittenhagen of the MCDO at the wellsite. The slash pile was still on location. On May 13, 1991, the MCDO issued a second INC with a \$250 fine for failure to remove the slash pile by May 1, 1991 (Attachment 8).

On May 14, 1991, Grynberg requested by sundry notice that the slash pile be left at the wellsite and incorporated this pile into the well pad and surrounding area at the time of final well abandonment. The sundry notice was received by the MCDO on May 17, 1991 (Attachment 9). On May 30, 1991, the MCDO rejected Grynberg's request and ordered him to remove the slash pile by June 13, 1991 (Attachment 10).

Grynberg indicates in the SDR request that an extension of time until May 11, 1991, to dispose of the slash pile was granted by an MCDO BLM employee based on a telephone conversation on April 18, 1991. The MCDO record (Attachment 11) indicates Todd McDonald of Grynberg informed the MCDO that he would not be able to remove the slash pile by May 1, 1991. Mr. McDonald also indicated that he could not be at the wellsite until May 11, 1991, due to a required court appearance, and left two phone numbers for the BLM to contact him. The MCDO did not attempt to call Grynberg until May 7, 1991 (Attachment 11), and was not able to reach Grynberg.

The MCDO record does not indicate that an extension of time until May 11, 1991, to dispose of the slash pile was granted. However, Grynberg did inform the MCDO on April 18, 1991, that he could not be at the wellsite until May 11, 1991. The MCDO, in turn, did not inform Grynberg that the May 11, 1991, date was unacceptable. Therefore, we consider the MCDO granted an extension until May 11, 1991.

A \$250 assessment for noncompliance was issued by the MCDO based on an inspection conducted on May 10, 1991. Since an extension to remove the slash pile was granted until May 11, 1991, the assessment issued by the MCDO to Grynberg for failure to comply within the timeframe specified by the INC JB217-1 was premature.

A review of the record would indicate that ongoing dialogue has occurred throughout this situation. Grynberg has, by and large, continued to communicate throughout this situation. Whether intended or not, MCDO continued to give Grynberg the impression that this matter, its solution, and correction timeframes were negotiable. Correspondence continues which has now reestablished a correction timeframe of June 13, 1991.

We, therefore, overturn the INC and assessment issued by the MCDO.

PAINTING OF FACILITIES

On July 5, 1989, Grynberg submitted a sundry notice indicating production equipment had been installed on the Federal No. 2 well. A condition of approval was attached to the approved sundry notice dated July 18, 1989, which stated that "All production facilities and equipment must be painted Desert Brown" (Attachment 12).

On November 30, 1990, an INC was issued to Grynberg for failure to paint the facilities and equipment Desert Brown at the Federal No. 2 wellsite (Attachment 13) as required by the MCDO in the conditions of approval in the July 18, 1990, sundry notice. The INC required compliance by May 1, 1991.

On May 10, 1991, Grynberg employee Todd McDonald met with John Bramhall and Keith Wittenhagen of the MCDO at the wellsite. Upon inspection of the facilities, it was noted that the production facilities had not been painted Desert Brown as specified in the July 18, 1990, sundry notice and the November 30, 1990, INC. As a result, the MCDO issued a second INC on May 13, 1991, with a \$250 fine for failure to paint the facilities and equipment Desert Brown at the Federal No. 2 wellsite by May 1, 1991 (Attachment 14).

The MCDO was correct in issuing the second INC and assessment for failure to comply with a written order of the Authorized Officer. The BLM conversation record of April 23, 1991 (Attachment 11) does not mention the subject of painting the facilities. Grynberg has not presented any proof in the SDR request that an extension beyond May 1, 1991, was sought. Therefore, we affirm the MCDO's decision to assess Grynberg for not painting the production facilities by May 1, 1991.

This Decision may be appealed to the Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR 4.400 and the enclosed Form 1542-1 (Attachment 15). If an appeal is taken, a Notice of Appeal must be filed in this office at the aforementioned address within 30 days from receipt of this Decision. A copy of the Notice of Appeal and of any statement of reasons, written arguments, or briefs must also be served on the Office of the Solicitor at the address

shown on Form 1842-1. It is also requested that a copy of any statement of reasons, written arguments, or briefs be sent to this office. The appellant has the burden of showing that the decision appealed from is in error.

(Orla. Sed.) H.A. Lemm

Howard A. Lemm, Acting
Deputy State Director
Division of Mineral Resources

14 Attachments

- 1-Letter from Grynberg dated June 5, 1991 (13 pp)
- 2-Grynberg Federal #2 APD (10 pp)
- 3-BLM Wood Contract (1 p)
- 4-11-30-90 INC on slashpile (1 p)
- 5-February 19, 1991, Sundry Notice Approval (3 pp)
- 6-Sundry Notice dated March 26, 1991 (1 p)
- 7-March 29, 1991, letter from the BDERA (1 p)
- 8-Slashpile INC dated 5-13-91 (1 p)
- 9-Sundry Notice dated May 14, 1991 (1 p)
- 10-BDERA letter dated May 30, 1991
- 11-BLM Communication Record (1 p)
- 12-Sundry Notice Approved July 18, 1990 (2 pp)
- 13-INC dated 11-30-90 on painting (1 p)
- 14-Painting INC dated 5-13-91 (1 p)
- 15-Form 1842-1 (1 p)

cc: w/attns.
DM, Miles City
AM, Big Dry

bc: w/o attns.
WO(610), PRE Bldg., Rm. 601
DM, Dickinson
DM, Lewistown
AM, Great Falls RA
MSO (922)
AK SO
AZ SO
CA SO
CO SO
ESO
ID SO
NV SO
NM SO
OR SO
UT SO
WY SO